IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 29TH MAY, 2007 / 8TH JYAISHTA, 1929

WP(C).No. 6796 of 2007(H)

PETITIONER:

KABEER, S/O. KUNJU KOYA,
MADHAVILAKKAL HOUSE, ADIPEARANDA,
KAIRADY P.O.

BY ADV. SRI.P.R.VENKATESH

RESPONDENTS:
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1. THE DEPUTY TRANSPORT COMMISSIONER
CENTRAL ZONE-I, THRISSUR.

2. THE ADDITIONAL REGISTERING AUTHORITY,
(JOINT REGIONAL TRANSPORT OFFICER),
ALATHUR.

BY GOVT. PLEADER SRI.BENJAMIN PAUL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.6796 OF 2007)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the Certificate of Registration dtd.12.10.2004 with No.KL 09 P 6479 by the Additional Registering Authority, Alathur.

Ext.P2: Copy of the permit no.P.Gd C3/245/2004/P A dtd.19.10.2004 issued by the Joint R.T.O., Alathur.

Ext.P3: Copy of the order dtd.12.11.2004 issued by R2.

Ext.P4: Copy of the order dtd.15.4.2005 passed by R2.

Ext.P5: Copy of the order of this Court in W.P.(C) No.14633/2006.

Ext.P6: Copy of the order of the first respondent dtd.8.11.2006.

Ext.P7: Copy of the order of the second respondent dtd.5.12.2006.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO. 6796 OF 2007 - H

Dated this the 29th day of May, 2007

J U D G M E N T

The petitioner purchased a later model vehicle Goods Carriage manufactured by Eicher Motors. The same was registered with the Additional Registering Authority, Alathur as No.KL 09 P 6479. At the time of purchase, the body was open. The petitioner is a retail dealer of Elite Foods Pvt.Ltd. which manufactures food products. Therefore, for transportation of these food products, it is necessary to cover the same. Therefore, the petitioner sought permission of the second respondent to alter the vehicle changing the open body as closed body. The same was rejected by the second respondent. The petitioner thereupon submitted an appeal before the first respondent. The first respondent considered the matter and rejected the same. Aggrieved by the above, the petitioner approached this Court by way of W.P.(C) No.14633 of 2006. This Court, by Ext.P5 judgment, directed the first respondent to consider the appeal afresh. The first respondent considered the matter afresh and passed Ext.P6 order. After Ext.P6 order, the

second respondent has only to implement Ext.P6 order. However, by Ext.P7 order, the second respondent again rejected the application of the petitioner. Challenging Ext.P7, the petitioner has filed this writ petition.

2. I have heard learned counsel for the petitioner as also the learned Government Pleader. Learned Government Pleader opposes the writ petition.

3. The learned counsel for the petitioner brings to my attention a judgment of the learned single Judge of this Court in W.P.(C) No.29946 of 2006 wherein in identical circumstances, reliefs were granted to a similarly situated person in respect of a similar request. I am in respectful agreement with the said decision. In any event, after Ext.P6, the second respondent has no authority to pass an order like Ext.P7. He should have followed Ext.P6 order. In the above circumstances, I quash Ext.P7 order. It is declared that if, upon inspection by the Registering Authority, the vehicle is found fit for use in public place, the variation sought by the petitioner shall be allowed and corresponding changes shall be made in the R.C.Book. This, the Registering Authority

shall do within one month from the date of production of a copy of this judgment.

The writ petition is disposed of as above.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:13-02-2007